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Message Text

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43
ACTION SS-25

INFO OCT-01 ADP-00 SSO-00 NSCE-00 /026 W
---------- 085499
O R 282055 Z JUN 73
FM AMCONSUL NASSAU
TO SECSTATE WASHDC IMMEDIATE 4357
INFO AMEMBASSY SAN JOSE

C O N F I D E N T I A L NASSAU 857

EXDIS

E. O. 11652: GDS
TAGS: PGOV PFOR BF
SUBJ: EXTRADITION - ROBERT VESCO

REF: (A) STATE 123932; (B) STATE 113199; (C) NASSAU 831;
(D) NASSAU 767; (E) STATE 124880

BEGIN SUMMARY: IN CONVERSATION WITH CONGEN OFFICER JUNE 28, ATTORNEY WALLACE- WHITFIELD SAID IT WAS IMPOSSIBLE TO REPRESENT A CLIENT (U. S. ATTORNEY) WITHOUT KNOWING DETAILS OF CASE. HE THEREFORE REQUESTED U. S. ATTORNEY TO SEND IMMEDIATELY DETAILED ALLEGATIONS AGAINST VESCO AND LEGAL THEORY BEHIND THEM. HE ALSO GAVE ROUGH ESTIMATE OF FEES. END SUMMARY.

1. CONGEN OFFICER HELD DISCUSSION WITH WALLACE- WHITFIELD JUNE 28 TO GET INFORMATION REQUESTED REF A AND TO EXCHANGE INFORMATION CONCERNING PRESENT STATE OF PLAY. OFFICER GAVE WALLACE- WHITFIELD TYPEWRITTEN COPIES OF WARRANT AND INDICTMENT CONTAINED REF B. WALLACE- WHITFIELD REITERATED THAT HE REQUIRES OFFICIALLY CERTIFIED COPIES OF BOTH AT ONCE; XEROX COPIES ARE INSUFFICIENT.

2. OFFICER PASSED INFORMATION RECEIVED FROM GOVERNOR (SEE REF C) TO WALLACE- WHITFIELD. ATTORNEY SAID IT WAS CLEAR THAT CHIEF MAGISTRATE HERCULES HAD AS MUCH DIFFICULTY WITH CASE AS WALLACE- WHITFIELD HIMSELF WAS HAVING, AND THAT MAGISTRATE HAD NO DESIRE TO ORDER PRELIMINARY ARREST ON GROUNDS WHICH WOULD
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PROBABLY COLLAPSE ON EVEN CASUAL LEGAL SCRUTINY. WALLACE-
WHITFIELD HAS ALREADY RECEIVED THIS IMPRESSION FROM HIS IN-
FORMAL CONTACTS BUT WILL APPROACH CHIEF MAGISTRATE PERSONALLY
TO SEE WHETHER LATTER' S OBJECTIONS ARE MERELY TECHNICAL OR GO
TO PRIMA FACIE MERITS.

3. WALLACE- WHITFIELD COMPLAINED THAT HE WAS PUT IN THE " IM-
POSSIBLE" POSITION OF TRYING TO JUSTIFY A REQUEST WITHOUT
UNDERSTANDING IT. WHAT WALLACE- WHITFIELD SAYS HE NEEDS FROM
U. S. ATTORNEYS IS THE EQUIVALENT OF AN OPENING STATEMENT TO
THE JURY, I. E. A FULL SETTING OUT OF THE ALLEGATIONS, WITH
DETAILS THAT GO FAR BEYOND THOSE CONTAINED IN THE INDICTMENT.
WALLACE- WHITFIELD IS MORE CONVINCED NOW THAN HE WAS TWO WEEKS
AGO (SEE REF D) THAT POSITIVE PROOF IS NEEDED THAT (1) THE
OFFENSE ALLEGED IS FRAUD AND (2) THE OFFENSE OCCURED WITHIN
U. S. JURISDICTION. THE DISTRICT COURT CASE CITED IN REF D
DOES NOT CONVINCE WALLACE- WHITFIELD AND HE BELIEVES IT WILL
CONVINCE NO BAHAMIAN MAGISTRATE EITHER. UNDER THE RULE OF
STRICT CONSTRUCTION OF PENAL STATUTES, WALLACE- WHITFIELD SAYS
BAHAMIAN COURTS WILL HOLD THAT 18 U. S. C. 1343 IS A WIRE FRAUD
STATUTE, WHICH HAS NO EQUIVALENT UNDER BAHAMIAN LAW. WALLACE-
WHITFIELD SAYS THE REASONING WILL BE THAT THE OFFENSE IS NOT
FRAUD, SINCE ELEMENTS OF FRAUD APPEAR IN THE PROVISION ONLY
AS PARTICIPLES DEFINING THE PERSON COMMITTING THE OFFENSE OF
USE OF THE WIRE. IT IS THIS USE OF TRANSMITTING FACILITIES
WHICH WILL BE CONSIDERED THE OFFENSE RATHER THAN FRAUD, ACCORD-
ING TO WALLACE- WHITFIELD.

4. WHATEVER THE MERITS OF WALLACE- WHITFIELD' S REASONING,
HE SAYS HE MUST HAVE FURTHER DOCUMENTATION, LEGAL AUTHORITIES
AND REASONING BEFORE HE CAN MAKE A BONA FIDE ARGUMENT TO
THE CHIEF MAGISTRATE, EVEN AT THE PRE- ARREST STAGE. HE RE-
QUESTS THAT THESE BE SUPPLIED HIM IMMEDIATELY. HE WILL IN
THE MEANTIME APPROACH THE CHIEF MAGISTRATE TO CONFIRM WHAT
HIS PROBLEMS ARE BUT WILL NOT ATTEMPT AN EX PARTE ARGUMENT.
WALLACE- WHITFIELD IS CONSIDERED A PROMINENT ATTORNEY WITH AN
EXCELLENT RECORD, AND HE TOLD CONGEN OFFICER FRANKLY HE NEI-
THER LIKES NOR PLANS TO LOSE CASES AND CERTAINLY NOT BECAUSE
OF POOR PREPARATION.

5. ON QUESTION OF PAY RATE, WALLACE- WHITFIELD SAID HE COULD
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ONLY MAKE ROUGH ESTIMATE SINCE FEE WOULD DEPEND ON AMOUNT
OF BRIEFING OR ARGUING REQUIRED. HIS NORMAL RATE IS DOLS
500 PER DAY.
SPEAR

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